

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Petition for Preemption of Article 52 of the
San Francisco Police Code Filed by the
Multifamily Broadband Council

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) MB Docket No. 17-91
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**REPLY COMMENTS OF InfoSmart Partners and Converged Services
Partners jointly**

InfoSmart Partners and Converged Services Partners hereby submits these reply comments in response to the April 4, 2017 Public Notice seeking comment on the February 24, 2017 Petition for Preemption (“Petition”) filed by the Multifamily Broadband Council (“MBC”). **InfoSmart Partners and Converged Service Partners** support the comments filed by the National Multifamily Housing Council and asks that the Commission grant the Petition of the Multifamily Broadband Council because Article 52 of the San Francisco Police Code effectively discourages facilities-based competition and infrastructure investment in multiple dwelling unit (“MDU”)¹ buildings, harms broadband deployment both wired and wireless technology, limits options for Entertainment, Information and communications services, raises prices for residents, adds additional responsibility for maintenance of inside wiring, adds

¹ An MDU is a centrally managed real estate development, such as an apartment building, condominium building or cooperative, gated community, mobile home park, or garden apartment. *See* 47 C.F.R. § 76.2000(b).

additional cost to property owners, increases the property liability with staff that is not trained in information and communications technology, and clearly conflicts with existing federal law.

1. InfoSmart Partners (ISP) and Converged Services (CSP) were founded to provide the real estate industry a national consulting firm dedicated to address the dramatic paradigm shift in Entertainment, Information and Communication Technology (ICT) that will drastically change the way we use information and how people and things communicate with each other. Internet access users are now over 90% in the US. The Internet is now deeply embedded in people's lives and evolving Broadband and Mobile technology solutions will be critical to enable businesses and consumers the connectivity required to meet this need. InfoSmart Partners' has the knowledge and experience and is dedicated to assisting our real estate clients to navigate this complexity and select the customized ICT options to stay competitive, and to provide the Entertainment, Information and Communication products and services desired by their residents.

I have a unique 30+ years perspective of this multifamily marketplace since I was on the service provider side of the table, as VP of Business Services for Comcast Corporate with responsibility for 13 million multifamily units. I dealt with multifamily REITs, large and small portfolios, affordable and student housing and planned unit developments. On the other side of the table, after leaving Comcast, I founded RealtyCom Partners in 2006 exclusively representing the real estate industry for 6 years as their Agent for acquiring telecommunication services. We were representing over 400,000 multifamily units when I sold RealtyCom to my partner the end of 2012. I have represented the property owner, developer, builder, and manager of both multifamily and single family

properties, including HOAs. My new consulting firms (in partnership with Leo Delgado a owner of CSI consulting for 20 years) ISP and CSP are exclusively representing the real estate industry as an Agent and end-end aggregator for the ICT technology infrastructure and services (wired and wireless broadband, cellular and Wi-Fi) for both existing and new build properties with offices in Florida and California.

2. Due to our extensive experience representing property owners and managers, ISP and CSP believe, although maybe well-intended, this ordinance would result in total disruption in a multifamily marketplace for telecommunications and information technology that works pretty well today. We strongly recommend the FCC should find that Article 52 should be preempted because it interferes with the federal regulatory framework for competitive access to inside wiring where the FCC “occupies the field,” and it conflicts with federal law and policy. Article 52 is a threat to bulk billing agreements, which have been upheld by the FCC and recognized for their pro-consumer benefits such as discounted rates and enhanced service quality. The FCC has acted to remove regulatory barriers to broadband deployment at the federal, state and local levels. This local ordinance, despite its stated goal, is a barrier to investment and broadband expansion because it actually disincentivizes service to MDUs effectively reducing competition.

3. The majority of real estate owners and managers do not have staff that are experts in telecommunications or knowledge of the enormous paradigm shift occurring in Information and Communications technology, therefore consultants like ISP and CSP are extremely important resources to assess, analyze and present service provider

technology and service options for their property owner clients. ISP and CSP maintain close relations with these providers of broadband, wireless and cellular technology to keep our clients informed about what they should be considering in provisioning services to their residents. We are a full service firm that provides our clients advice on not only technology and services, but enabling infrastructure to deliver the best solutions for their type of property and their residents. In addition, we provide service provider contract negotiation and industry legal resources to provide important provisions and incentives in the provider agreements. This type of ordinance if implemented across the country would eliminate many of the technology, service, and financial incentives property owners are currently able to negotiate in service provider agreements. Today the majority of property owners do not have budgeted funds for outsourced telecom consultants and rely on the service provider incentives negotiated by their consultants to pay for their services as well as property improvements. This ordinance would have the effect of eliminating telecom consultants and the important expertise they provide to the majority of property owners. We represent the largest property owner/manager in the multifamily industry of affordable housing for low income people and seniors, which often times utilizes discounted bulk agreements. This ordinance allowing residents to select any service provider to come in and use inside wiring, despite any existing provider agreements that would prohibit such use, and would result in the elimination of service provider bulk agreements and the benefits which the FCC has recognized as important to our citizens.

4. Some other areas that will be impacted by this ordinance are:
- a. Property owners would not be able to get service providers to provide maintenance and repairs to inside wiring adding additional cost for personnel and infrastructure.
 - b. Property owners would not have the capital to upgrade their infrastructure as new technology became available.
 - c. More than two facility-based providers on a property would cause major disruption and likely the property would not have space to accommodate the required infrastructure.
 - d. Property owners of Student Housing would not be able to provide the infrastructure to provide the high broadband requirements needed, provide bulk agreements, or service each student by the bed as is common today.
 - e. Under-capitalized ISPs would not service one or two residents in a property since it would not be economically feasible.
 - f. There clearly would be multiple law suits by property owners challenging the right of others to “take” their ownership and use rights of inside wiring.
 - g. Many providers are required by their local franchises to serve all the properties in their franchise area. These additional providers would cherry pick the high income areas. What impact would this have on service to low income areas, as well as, affordable and assisted living housing?
 - h. Service provider agreements, including new ISPs serving one resident, would become unmanageable and complex creating tremendous confusion.
 - i. Service quality without service standard requirements would be degraded.

5. This ordinance Article 52 has so many predictable bad consequences that it will negate the current FCC policy on the use of inside wiring and its ownership, the current service provider agreements, the future infrastructure investment, and the introduction of new technologies and services for residents of multifamily housing. There is ample competition in multifamily housing today among service providers and as broadband, wireless, and cellular technology evolves it will become more competitive with additional choices for residents. There is no need for this type of ordinance.

Respectfully Submitted,

Donald A. Clark, President, CEO

InfoSmart Partners

Date: June 8, 2017